

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AQUARIUS JOHNSON,

Petitioner,

Case No. 1:21-cv-456

v.

Honorable Paul L. Maloney

LES PARISH,

Respondent.

ORDER TO FILE AMENDED PETITION

This is a habeas corpus action brought by a state prisoner under 28 U.S.C. § 2254. All applications for habeas corpus relief must be submitted on the form petition provided by this Court. *See* Rule 2(d), Rules Governing § 2254 Cases; W.D. Mich. LCivR 5.6(a). Petitioner failed to file his petition on the requisite form. Instead, Petitioner filed a document asking the Court to toll the statute of limitations, stay these proceedings, and hold them in abeyance until the law library restrictions the Michigan Department of Corrections has imposed to address the COVID-19 pandemic have been lifted. (Mot. for Abeyance, ECF No. 1.)

The remedy of stay and abeyance is appropriate in certain circumstances, but it is impossible to determine whether that remedy is appropriate here because Petitioner has not provided the necessary information. If Petitioner wishes to proceed with his action, he must carefully fill out the form petition and submit it to the Court. The Court directs the Clerk to send to Petitioner a copy of the form petition under 28 U.S.C. § 2254 for writ of habeas corpus by a person in state custody. Petitioner shall submit an amended petition by filing his habeas petition on the requisite form within 28 days from the date of entry of this order. The case number shown

above must appear on the front page of the amended petition. Petitioner must file an original and one complete copy of the amended petition and any attachments. Because the amended petition will take the place of the original petition, the amended petition must set forth all of the grounds for relief that Petitioner intends to raise.

Petitioner claims he has been stymied in his efforts to timely submit a petition by restrictions on access to the law library. As Petitioner acknowledges in his motion, however, he was required to exhaust his remedies first in the state courts. Based on Petitioner's recounting of the procedural history, it appears he already has. If that is the case, Petitioner need only identify the issues and arguments he has already presented to the state courts. Indeed, the form makes clear that there is no need to cite law.

If Petitioner fails to submit an amended petition in proper form within the time allowed, the petition may be dismissed without prejudice by the Court.

IT IS SO ORDERED.

Dated: June 15, 2021

/s/ Ray Kent
United States Magistrate Judge